

Free off-street parking. An organization that provides and maintains free off-street parking to anyone visiting a city's downtown business district qualifies for exemption under section 501(c)(4) of the Code. Rev.Rul. 78-86 distinguished.

ISSUE

Does a nonprofit organization that provides and maintains free off-street parking in a city's downtown business district, under the circumstances described below, qualify for exemption from federal income tax under section 501(c)(4) of the Internal Revenue Code?

FACTS

The organization was created to provide and maintain free off-street parking in a particular city's downtown business district in order to relieve congested parking conditions. Parking is available, without restriction, to anyone visiting the downtown area.

The organization's membership includes local merchants and businessmen, churches, civic organizations, and other interested individuals and organizations. Members are not favored by the manner in which the parking lots are located, nor are parking spaces reserved for the members, or their tenants or customers.

The organization receives income from contributions and membership dues. Disbursements are for the operating expenses of the parking lots.

LAW AND ANALYSIS

Section 501(c)(4) of the Code provides for the exemption from federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements.

Section 1.501(c)(4)-1(a)(2)(ii) of the regulations provides that an organization is not operated primarily for the promotion of social welfare if its primary activity is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

In this case, the organization is contributing to civic betterments and improvements to the city by relieving congested parking conditions in the downtown area. Providing the availability of free public parking to everyone visiting the downtown area of this city without using public funds is a direct benefit to the city and its residents. The organization's membership encompasses a broad spectrum of the community, thus insuring that the organization will not be operated to benefit any particular merchant or business. Also, by providing free parking, the organization is not carrying on a business with the general public in a manner similar to organizations which are operated for profit. Therefore, the organization is promoting the common good and general welfare of the people of the community within the meaning of section 1.501(c)(4)-1(a)(2) of the regulations.

The organization in this case is distinguishable from the one described in Rev.Rul. 78-86, 1978-1 C.B. 151, which states that the Service will not in similar cases follow the decision in *Monterey Public Parking Corporation v. United States*, 481 F.2d 175 (9th Cir.1973). That case affirmed the determination of the United States District Court for the Northern District of California that an organization whose principal activity was the operation of a park and shop plan in which patrons of particular member merchants received stamps entitling them to free parking qualified for exemption under sections 501(c)(3) and 501(c)(4) of the Code. In this case, the organization does not operate a park and shop plan. Rather, free parking is made available to anyone visiting the downtown area, and the lots are not located or operated to benefit particular members.

HOLDING

An organization that provides and maintains free off-street parking in a city's downtown business district, under the circumstances described above, qualifies for exemption from federal income tax under section 501(c)(4) of the Code.

APPLICATION INSTRUCTIONS

Even though an organization considers itself within the scope of this revenue ruling, it must file an application on Form 1024, Application for Recognition of Exemption, in order to be recognized by the Service as exempt under section 501(c)(4) of the Code. See section 1.501(a)-1 of the regulations. In accordance with the instructions to Form 1024, the application should be filed with the District Director of Internal Revenue for the key district indicated therein.

EFFECT ON OTHER REVENUE RULINGS

Rev.Rul. 78-86 is distinguished.